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The Gap Between China and America in the Development of the Crowdfunding Industry and Our Strive Direction

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Abstract

The forms of crowdfunding can be divided into 4 kinds of patterns: donation pattern, return pattern, debt pattern, and equity pattern. It is not a long time since the concept of crowdfunding investment and financing was introduced into our country. The crowdfunding pattern increases a new way to solve the problem of the difficult financing and the high cost of financing of our small and medium-sized enterprises. At the same time, it provides the innovation and entrepreneurship of all ambitious young people a financing channel, which is conducive to the promotion of scientific and technological innovation and the implementation of new ideas, and is conducive to increasing employments and maintaining social stability. Nevertheless, our crowdfunding financing is still in the initial stage, which lacks regulatory measures for it. From the point of view of the present situation in our country, due to the lack of the legal regulation to this emerging industry crowdfunding, the lack of innovation ability, and the lack of the establishment of the credit system, the crowdfunding financing mode still need a longer time of operation to build commercial atmosphere.

Key words: Crowdfunding investment and financing; The crowdfunding platform; The equity pattern crowdfunding

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INTRODUCTION

Crowdfunding is a way in which fund-raiser attracts many ordinary investors by a project through the Internet platform in order to raise the funds needed. The forms of crowdfunding can be divided into 4 kinds of patterns: donation pattern, return pattern, debt pattern, equity pattern.

Crowdfunding financing was originated in United States. Artist Share company was established in 2001 in the United States as a pioneer of crowdfunding platform. In April 2009, Kickstarter established and developed into the world's largest crowdfunding financing platform. The world's first equity crowdfunding platform Angellist was born in the Silicon Valley of America in 2010.

It is not a long time since the concept of crowdfunding investment and financing was introduced into China. It is only a few years so far. The "named time" appeared on line in July 2011, which is the earliest crowdfunding financing platform of China. And then crowdfunding financing platforms, such as the "venture capital circle", the "our investment", the "crowdfunding network" and the "angel crowdfunding" appeared, and successfully raised funds for a number of creative projects.

The crowdfunding pattern increases a new way to solve the problem of the difficult financing and the high cost of financing of our small and medium-sized enterprises. At the same time, it provides the innovation and entrepreneurship of all ambitious young people a financing channel, which is conducive to the

promotion of scientific and technological innovation and the implementation of new ideas, and is conducive to increasing employments and maintaining social stability. Nevertheless, our crowdfunding financing is still in the initial stage, which lacks regulatory measures for it. The development of our crowdfunding financing still faces many risks and uncertainties in the future.

1. THE GAP BETWEEN CHINA AND AMERICA IN THE DEVELOPMENT OF THE CROWDFUNDING INDUSTRY

First of all, from the perspective of the time of the origin of crowdfunding financing, the crowdfunding financing of America origins from 2001, however the crowdfunding financing of China started in 2011, which fell behind 10 years.

Secondly, from the view of the financing pattern of crowdfunding, the U.S. has only involved the donation pattern and the return pattern and the equity pattern had not been involved due to the limitation of the law at the beginning. But the equity pattern crowdfunding is very attractive to investors; thereby it is also more likely to raise money, which prompted its legalization by the introduction of national policies. So in March 2012, the United States of America awarded the JOBS act to permit the equity pattern crowdfunding, however our country just launched a pilot project for it till November 19, 2015.

Thirdly, from the perspective of the supervision mechanism of crowdfunding financing, The United States introduced the JOBS act in March 2012 and has been introducing a number of rules related. However, in China, the regulations to supervise crowdfunding investment and financing, especially the equity pattern crowdfunding, are still brewing and have not yet been formally introduced.

Fourthly, from the perspective of the purposes of financiers, the American financiers often use new ideas and new projects to build a platform for raising the initial fund. However the financiers of our country often used some more mature projects to build platform to carry out propaganda and financing, which lost the original intention of crowdfunding to support the creative projects.

Fifthly, from the scale of financing point of view, the domestic crowdfunding platform exceeded 100 in 2014. According to the monitoring data of the China Electronic Commerce Research Center (100EC.CN), in the first half of 2014, there are 1423 crowdfunding financing events occurred in the crowdfunding industry of China, which raised a total amount of 1.88 billion yuan which includes 1.56 billion yuan from the equity pattern crowdfunding. While there had been 344 crowdfunding platforms in

the United States at the end of 2013. There were nearly 5,600 crowdfunding financing events in the American crowdfunding. The actual fund-raising amount reached \$21,508.61 million, which reaches at the success rate of crowdfunding of 206.28%.

According to official data, the United States crowdfunding platform Kickstarter had 3 million users financing \$480 million totally for its nearly 20,000 projects in 2013. By March 2014, the amount of capital achieved through the crowdfunding platform has been more than \$1 billion. While the “named time” of our country made the transition from crowdfunding project to pre-sale project at the end of April 2014.

Sixthly, from the perspective of the number of investors, the total number of all investors of our crowdfunding website is about 200,000 people. While in the United States, the number of active investors is close to 2,810,000 only from the data of the first half of 2014. In addition, due to the restriction of our legal, the number of investors to participate in each project is small. Then taking into account the risk considerations, the financing amount of each project is not large too. So the crowdfunding platform is not very applicable to the high-tech research and development projects now.

Seventhly, from the perspective of the content of the projects issued, the creative projects issued by American crowdfunding platform have many original designs, involve various categories, and have high independent innovation ability. While the majority of the projects issued by our crowdfunding platform often involve catering, entertainment and some low-end product design, whose categories of design are less?

2. THE PLIGHT OF THE DEVELOPMENT OF CHINA'S CROWDFUNDING INDUSTRY

The crowdfunding financing pattern brings gospel to the development of China's creative projects, and to the financing of youth entrepreneurship and minor enterprises. However, the pattern is still in the early stages of development, and China has not yet the relevant regulatory measures, so it is also facing a lot of resistance and risk to be resolved.

2.1 There Is Resistance to the Localization of the Crowdfunding Investment and Financing

First of all, the resistance is from the national policy. China has not yet the relevant legal policies to the crowdfunding investment and financing, which are easy to be associated with the illegal fund-raising. *The Interpretation of the Supreme People's Court on Several Issues concerning the application of law in the trial of criminal cases of illegal fund-raising* stipulates that

the act of raising money from the public (including units and individuals) by violating national laws and regulations concerning financial management, with the following four conditions at the same time, and except the otherwise prescription in the criminal law, shall be recognized as illegal absorbing of public deposits or absorbing public deposits in a disguised way: To absorb funds without the approval of the relevant departments in accordance with the law or by borrowing the form of legitimate business; to propagandize openly to the public through media, promotion, leaflets, text messages of mobile phone and other means; to promise to repay capital with interest or to return on payment within a certain period in the manners of money, material object, equity and so on; to absorb funds to the public, that is to say, not to a specific object.

In addition, the *Company Law* stipulates that the number of shareholders to establish an incorporated corporation can not exceed 200, and the number of shareholders to set up a limited partnership can not be more than 50. There is no doubt that the above provisions set a limit to the crowdfunding investment and financing in terms of promotion, financing, investment return, and the candidate of investor, which results in that the equity that is more incentive to investors can not be used as a stake to raise money.

Secondly, the resistance is from the crowdfunding platform. The crowdfunding investment and financing of our country are just emerging. In order to get stronger competitiveness, a crowdfunding platform is more willing to accept some mature projects which have a certain scale and achievement to finance so as to improve its credibility in the industry. This provides less financing opportunities to some creative projects in the start-up period, which is not conducive to the development of our country's independent innovation, especially the innovation in the field of science and technology. The crowdfunding platforms lack a perfect credit system and a management mechanism, which has the risk of fraud and can not win the trust of many investors. This hinders the development of the crowdfunding investment and financing of our country to a certain extent.

Finally, the resistance is from potential investors. Although China has a large population, the people who participate in the crowdfunding investment are few. That is due to the limitations of the crowdfunding platform on the one hand. On the other hand, that is due to the more conservatism of the general public in China. They are not able to accept the new exotic of financing and understand little of its risk. It needs a process to make our investors accepting it.

2.2 The Risks Faced by the Crowdfunding Investment and Financing

From the perspective of circumstance, the risk of the crowdfunding investment and financing is mainly from

the market circumstance, the economic circumstance, the legal circumstance, the credit circumstance, the social circumstance, the political circumstance and so on. The risk of market circumstance is mainly a risk result from the downturn of project market, the vicious competition, and the market fraud. The risk of legal circumstance is mainly related to the legal compliance and the reason compliance of the contract design, the intellectual property disputes, and the market regulation and so on. The risk of political circumstance is mainly from the policy intervention and the adjustment of national economy center. The changes of macro policy will directly affect the operation of the crowdfunding platform. The adjustment of the national economic center will affect the level of the boom of the project, thus affect the level of the risk of crowdfunding. However, in general, the risk from the political side is very small.

The risk of social circumstance mainly refers to the risk of wringing from the mass media. When the scandals or failure cases of the crowdfunding investment and financing occurred, the media often hypes up them so that the crowdfunding investment and financing left a bad impression to the public, let more potential investors dare not set foot in all the chips in the field. The risk of credit circumstance means that the national quality needs to be improved, and the national credit system needs to be improved. In the circumstance in which credit is not high, investors and financiers tend to do fraud, which raises the risk of crowdfunding. The risk of economic circumstance mainly refers to the risk of the slowdown of macroeconomic, that is to say, the economic downturn brings a greater uncertainty to the development of crowdfunding.

From the perspective of governance, the risk of the crowdfunding investment and financing mainly includes the governance of crowdfunding platform and the governance of financier. From the governance of crowdfunding platform, there are regulatory risk, occupational risk brought by human resources, moral risk, and system risk. From the governance of financier, there are a risk of ownership structure, a risk of the board, and the risk of the system, etc. These risks are complementary to each other rather than alone. Audit staffs of project have audit failures or unethical behaviors (such as the collusion between finance and audit staff) may bring regulatory risk, which makes the project with problem coming into the crowdfunding platform. And the changes in the ownership structure of the financiers will bring a certain risk, because the equity disputes are easy to lead to the risk of investors that the investment and benefit can not be recovered. In addition, there is the system risk which includes the risks brought by the vulnerability of the system of the Crowdfunding platform and of the internal management system of financiers.

3. THE STRIVE DIRECTION OF THE CROWDFUNDING INDUSTRY OF CHINA

The healthy development of the crowdfunding investment and financing of China needs to overcome the obstacles and risks above. First of all, it should be supported and bound by laws and regulations to ensure that the crowdfunding investment and financing are on the right direction of development. We should strictly restrict the access conditions of investors, at the same time release the limit of the number of investors, which are conducive to the spread of risk. Secondly, we should establish industry associations of the crowdfunding platform to do the self-regulation of the industry, to develop the rules and regulations of the industry, to regulate the project audit strictly, to ensure the quality of the project, and to raise the credit. We should strictly regulate the project audit, to ensure the quality of the project, raise public financing credit of the crowdfunding investment and financing. Thirdly, we should strengthen the investment to education, which will make more financial investors understanding the meaning of the crowdfunding investment and financing and the risks of project so as to enhance the awareness of risk prevention of investors.

On the basis of the above, the crowdfunding investment and financing of our country should continue to developing towards the direction of more specialization and more online. The specialization development can weaken the risk and be more professional, because the crowdfunding platforms are more easier to carry out the audit of the project and more able to determine whether the project has the development potential and the size of the risk of the project after an in-depth understanding of a certain industry, which can protect the interests of investors better.

At the same time, this can accommodate the staggered developments of more crowdfunding platforms and reduce the emergence of bad competition. Specialization not only refers to the specialization inter industries, but also includes the segmentation inner the industry. For example, some platforms can be specialized in financing the start-up projects, and some platforms can be specialized in financing the mature projects, that is to say, finance for the small and medium enterprises to solve the problem of financing difficulties of these enterprises. Being more online refers to making the full use of the Internet platform to do the investment and financing transactions and reducing the activities offline, which makes the Internet more convenient and fast to the crowdfunding.

3.1 Manage and Constantly Monitor the Source of Risk

The source of all risks can be attributed to the existence of behavior. As long as there is behavior, there will be the possibility to encounter with and even to realize a risk. With the development of the economic and social

progress, the behavior must advance with the times; otherwise there will be a risk. That is the source of the risk will not be destroyed, only to be monitored in real time. Only we keep the behavior according with the pace of the times, can we prevent the risk of the source creating more risks? For example, legal risk is derived from the law making behavior if you get to the bottom of it. As long as the law and policy formulation keep up with the development of the pattern of the crowdfunding investment and financing, we will manage it, which will prevent the risk of endangering society.

3.2 Make the Carrier No Longer Carrying Risk, Making the Risk Having Nowhere to Escape

The key of here is to improve the relevant laws and regulations and system carriers, to control the corresponding carriers of behavior and information, and to manage the corresponding financial carriers. Making these carriers no longer carrying the foreseeable risks will make the implementation of relevant laws and regulations and systems, the spread of information, the use of funds more secure and reliable. In the control of the risk of the crowdfunding, the control of the carrier's risk is very important. That mainly includes: To perfect the relevant laws and policies, to control the spread of information, to enhance the technical capacity, to protect the network security, to control the use of funds, to strengthen the quality education of relevant personnel, and to do prudent operation. In particular, we must pay attention to the prevention of the breeding of risk and coupling effect.

3.3 Enhance the Ability of the Receptor to Resist Risks

This requires a strict control of the channel in which investors enter. For example, in terms of qualifications, the investors to enter must have a certain asset and fixed income sources, and the amount of the investment must be in accordance with the proportion of assets and the proportion of income.

But it must be noted that the problem is often easy to fake. And the crowdfunding platform is not suitable to monitor. So this requires the state to improve the national credit system, to entitle the crowdfunding platform to investigate the investor's ability to resist risk. In addition, the risk sharing also can enhance the anti-risk ability of receptors, in which the risk will be distributed to financier, platforms, and investors according to the proportion of return, thereby reducing the intensity of individual risk and enhancing the ability of receptor to resist risk.

3.4 Define the Regulatory Bodies and Coordinate the Division of Labor

We should avoid overlapping and blind areas. The people's bank should take charge of the regulation of the top-level design and development planning of all kinds of Internet financial products. The China Securities Regulatory Commission is responsible for the supervision

of the equity pattern crowdfunding, the China Insurance Regulatory Commission is responsible for the supervision of the insurance linked to investment, the Ministry of Industry and Information Technology is responsible for the record of the qualification of the crowdfunding platform, the Ministry of public security is responsible for the supervision of the network fraud and illegal fund-raising. When it comes to the cross-sector and inter-departmental regulation, the people's Bank is responsible for the coordination and unification. It should strengthen and unify the supervisions from various aspects to reduce the regulatory costs, improve regulatory efficiency, and avoid regulatory duplication.

3.5 Set the Industry Rules and the Bottom Line, and Guide the Healthy Development of the Industry

We should make clear provisions of the rules and procedures of crowdfunding. We should define the difference between the crowdfunding financing and the P2P network lending. This will classify the network financing involving monetary rewards and debtor-creditor relationship into the range of P2P network credit to prevent the crowdfunding financing stampeding the red line of illegal fund raising. We should make regulatory rules actively for the equity pattern crowdfunding, and limit the amount of financing, the maximum number of investors, the financing mode and other indicators to define the difference between the issue of securities and crowdfunding, so as to prevent them from becoming illegal securities activities. And we should pay close attention to the operating range of the crowdfunding platform to beware of the self-employed development of the crowdfunding platform and the illegal absorption of investors' funds.

3.6 Differentiate Between Different Types of Crowdfunding Financing, and Set Reasonable Industry Standards of Industry Access and Investing Qualifications

For the characteristics of great risk and high level of specialization of the equity pattern crowdfunding, we should make strict constraints for the qualifications of the equity crowdfunding platforms and the sponsors, and set the financing ceiling and the risk prevention measures. We should divide the equity crowdfunding investors into qualified investors and ordinary investors according to the level of professional ability and the ability to withstand risks. The qualified investors need to reach a certain size of the assets and a certain level of the risk-resist ability. There is no limitation of the investment ceiling for them. While there is an investment ceiling set for the ordinary investors to prevent their blind investment, which beyond their abilities to withstand. For the incentive crowdfunding, because of its small amount, low risk, the characteristic of more reflecting the civilianization feature of crowdfunding, and the factor that the majority

of supporters unconditionally support it out of interest and love; we can appropriately reduce the project access qualifications and the regulatory requirements.

3.7 Establish the System of Information Disclosure and Risk Rating to Protect the Interests of Investors

We should establish the system of information disclosure, which provides that the incentive crowdfunding platform would have to disclose the information of the products according to a certain format to make a promise on the product quality, the delivery period, and the using of capital, to timely update the progress of production, the situation of the use of funds, the information of logistics changes, and to make risk warning to consumers combining with the production practice. The equity crowdfunding platforms need to disclose the financing scope of the project, the investment risks, and the qualification requirements of investor, and need to publish the total amount of the financing of the project, the changes in the status of the shareholders and the company's financial statements regularly. Two types of crowdfunding platform need to disclose their own audited financial reports regularly, and to clearly explain the risk of investors, the business processes, and the relationship between the various participating agencies, to increase the transparency of the industry and protect the interests of investors.

At the same time, they should establish or join the Internet platform risk rating system, which will rate the crowdfunding platforms through the specialized rating agencies and publish the rating results to the public and investors regularly to issue risk warning in order to protect the vital interests of investors.

CONCLUSION

From the point of view of foreign experience, because of the existence of the developed creative industry, the effective protection from the legal norms, the strong personalized consumption demand, the perfect credit system and so many other favorable factors, the crowdfunding financing mode is widely accepted and has a very good development. From the point of view of the present situation in our country, due to the lack of the legal regulation to this emerging industry crowdfunding, the lack of innovation ability, and the lack of the establishment of the credit system, the crowdfunding financing mode still need a longer time of operation to build commercial atmosphere. But looking for the identity of the values is a rigid demand; the crowdfunding financing mode must be generally recognized by the industry and break out the immense energy, so as to inject the positive factors into the development of China's real economy.

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